



November 9, 1999

Mr. Darrell G-M Noga  
Cooper & Scully  
900 Jackson Street, Suite 100  
Dallas, Texas 75202

OR99-3180

Dear Mr. Noga:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130865.

The City of Coppel (the "city"), which you represent, received a request for "written statement taken from [a named individual] by Officer Curtis Shelton on Wednesday, September 29, 1999," "offense report 'intoxication assault' filed against [a named individual] with Denton County District Attorney by City of Coppel Police Department arising out of September 5, 1999 motor vehicle accident," and "investigation report - domestic violence - involving [a named individual] on ... October 2, 1999." You indicate you have released some of the information responsive to the request. You have provided for our review additional information that is also responsive to the request. You assert that the intoxication assault report is excepted from public disclosure under section 552.108 of the Government Code. We have reviewed the representative sample of information you have submitted and considered the exception you assert<sup>1</sup>.

We note at the outset that among the documents submitted for our review is an "Affidavit for Arrest Warrant" which appears to have been filed with a court<sup>2</sup>. Documents filed with

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

<sup>2</sup>The document contains a stamp which states: "Municipal Court No. 1 in Coppel, Texas."

a court are generally considered public and must be released. *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992).

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

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(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

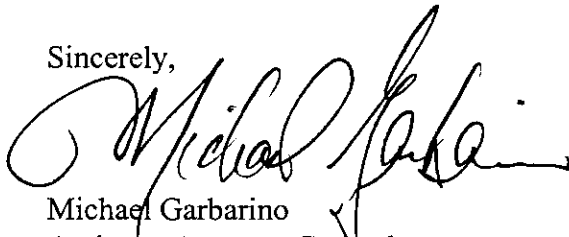
Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate that the intoxication assault information concerns a pending investigation of a vehicular accident in which a related felony charge is pending, and that prosecution is intended. We accordingly find that you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976)

(court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978). Thus, we conclude that the remaining requested information may be withheld under section 552.108(a)(1).

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see Houston Chronicle*, 531 S.W.2d at 187. You indicate you have released such information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/ch

Ref: ID# 130865

Encl. Submitted documents

cc: Mr. Michael R. Cooper  
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(w/o enclosures)